

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CRIMINAL NO. 04-30139-14-GPM
)	
JOSIAH COMPTON,)	APPEAL NO. 09-1722
)	
Defendant.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

On March 16, 2009, this Court re-sentenced Compton pursuant to the Seventh Circuit’s mandate. Compton filed a notice of appeal at the conclusion of the hearing, and the appeal has been docketed in the Seventh Circuit Court of Appeals (Appeal No. 09-1722). Now Compton has filed a “motion to dismiss notice of appeal” in the district court (*see* Doc. 954).

Federal Rule of Appellate Procedure 42(b) provides:

The circuit clerk may dismiss a docketed appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due. But no mandate or other process may issue without a court order. An appeal may be dismissed on the appellant’s motion on terms agreed to by the parties or fixed by the court.

FED. R. APP. P. 42(b). The district court can only dismiss an appeal before an appeal has been docketed in the Court of Appeals. FED. R. APP. P. 42(a).

Accordingly, this Court lacks jurisdiction to grant the relief requested, and the instant motion (Doc. 954) is **DENIED**.

IT IS SO ORDERED.

DATED: 03/30/09

s/ G. Patrick Murphy
G. Patrick Murphy
United States District Judge